

The Honorable David S. Keenan

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR KING COUNTY

PATRICK COLACURCIO, MARIS and
DAVID HANSON, and JAMES
McMURCHIE, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

INSIGHT VENTURE PARTNERS VII, L.P.,
a Cayman Islands limited partnership;
INSIGHT VENTURE PARTNERS
(CAYMAN) VII, L.P., a Cayman Islands
limited partnership; INSIGHT VENTURE
PARTNERS VII (CO-INVESTORS), L.P., a
Cayman Islands limited partnership;
INSIGHT VENTURE PARTNERS
(DELAWARE) VII, L.P., a Delaware limited
partnership; INSIGHT VENTURE
PARTNERS COINVESTMENT FUND II,
L.P., a Delaware limited partnership;
INSIGHT VENTURE ASSOCIATES VII,
L.P., a Delaware limited partnership;
INSIGHT VENTURE ASSOCIATES VII,
LTD., a Cayman Islands limited company;
INSIGHT VENTURE ASSOCIATES
COINVESTMENT II, L.P., a Delaware
limited partnership; INSIGHT VENTURE
MANAGEMENT, LLC, a Delaware limited
liability company; INSIGHT HOLDING
GROUP, LLC, a Delaware limited liability
company, and RYAN HINKLE,

Defendants.

NO. 19-2-33469-0 SEA

FIRST AMENDED CLASS ACTION
COMPLAINT FOR VIOLATION OF
WASHINGTON STATE SECURITIES
ACT, BREACH OF FIDUCIARY DUTY,
AND UNJUST ENRICHMENT

1. This action arises out of Defendants' role in the purchase of Plaintiffs' shares of Smartsheet stock, and in the purchase of similarly situated investors' shares of Smartsheet stock, during a tender offer in June and July 2017.

3. In June and July 2017, Defendants Insight Venture Partners VII, L.P., Insight Venture Partners (Cayman) VII, L.P., Insight Venture Partners VII (Co-Investors), L.P., Insight Venture Partners (Delaware) VII, L.P., and Insight Venture Partners Coinvestment Fund II, L.P. (collectively the “Private Equity Fund Defendants”) made a tender offer to Smartsheet’s stockholders (“2017 Tender Offer”). At the time, Smartsheet was a private company, and its shares were not traded on any public securities exchange. Smartsheet’s shareholders, including Plaintiffs, tendered 6,477,843 shares in total in the 2017 Tender Offer at a price of \$8.3035 per share. The Private Equity Fund Defendants bought over 80 percent of those shares.

4. The other Defendants controlled the Private Equity Fund Defendants. The Private Equity Fund Defendants, together with Insight Venture Associates VII, L.P., Insight Venture Associates VII, Ltd., Insight Venture Associates Coinvestment II, L.P.; and Insight

1 Venture Management, LLC, are collectively referred to below as “Insight Partners,” which is
2 the way they refer to themselves publicly.¹ References to “Defendants” herein refers to all
3 Defendants named in this action.

4 5. Just five months after the 2017 Tender Offer in December 2017, Smartsheet
5 filed a confidential S-1 registration statement with the United States Securities and Exchange
6 Committee (“SEC”), seeking approval for an initial public offering (“IPO”). In April 2018,
7 Smartsheet went public, and is now worth over \$1 billion, and is trading in excess of \$40.00 per
8 share, more than four times the 2017 Tender Offer price.

9 6. At the time Defendants made the 2017 Tender Offer, Smartsheet was already
10 forming plans for an IPO. Defendant Ryan Hinkle was a both a member of Smartsheet’s Board
11 of Directors, and a Managing Director of Insight Venture Management, LLC (dba Insight
12 Venture Partners). He also led Insight Partners’ investment in Smartsheet. Defendant Hinkle
13 and Defendants, through their connections with the Smartsheet Board of Directors, knew
14 material, non-public information about Smartsheet’s plans to go public.

15 7. Defendants failed to disclose this material, non-public information about
16 Smartsheet’s plans to go public in their tender offer documents.

17 8. Plaintiffs and the putative class tendered over 6 million shares, for millions of
18 dollars less than the stock was worth then or today. By tendering stock, Plaintiffs and the
19 putative class lost the substantial increase in the stock value gained when the stock was sold on
20 the public market. By this lawsuit, Plaintiffs seek to hold Defendants responsible for this
21 disparity and loss.

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¹ See Insight Partners, <https://www.insightpartners.com/> (last visited Oct. 31, 2019).

9. Through their misconduct, Defendants violated numerous duties, including, but not limited to, duties owed as a corporate director and duties owed under the Washington State Securities Act. Plaintiffs bring this lawsuit on their own behalf and on behalf of all similarly situated individuals and entities as members of a proposed plaintiff class pursuant to CR 23(b)(2) and (3). Plaintiffs and the putative class seek relief for damages suffered as a result of misrepresentations and omissions of material facts in connection with the tender offer purchase of nearly \$55 million in securities, orchestrated by Defendants. Plaintiffs and the putative class seek relief under the Washington State Securities Act, RCW 21.20.010 *et seq.*, and Washington common law.

PARTIES

10. Plaintiff Patrick Colacurcio is an individual residing in King County, Washington. Patrick Colacurcio has been an investor in Smartsheet from 2005 to present and sold shares to Defendants in the 2017 Tender Offer.

11. Plaintiffs Maris and David Hanson are a married couple residing in King County, Washington. Maris and David Hanson became investors in Smartsheet in 2012 and sold shares to Defendants in the 2017 Tender Offer.

12. Plaintiff James McMurchie is an individual residing in Snohomish County, Washington. James McMurchie became an investor in Smartsheet in 2012 and sold shares to Defendants in the 2017 Tender Offer.

13. A chart showing the relationships among the Defendants is attached as Exhibit 1.

14. The Private Equity Fund Defendants Insight Venture Partners VII, L.P., Insight Venture Partners (Cayman) VII, L.P., Insight Venture Partners VII (Co-Investors), L.P., Insight

Venture Partners (Delaware) VII, L.P., and Insight Venture Partners Coinvestment Fund II, L.P. are private equity funds that invest money from outside investors. They are exempt from registration with the SEC under Regulation D of the Securities Act of 1933. These Private Equity Fund Defendants actually purchased the shares that Plaintiffs and the putative class tendered in the 2017 Tender Offer.

15. Defendant Insight Venture Partners VII, L.P. Defendant Insight Venture Partners VII, L.P. is a limited partnership organized and existing under the laws of the Cayman Islands, with an office located in the Grand Cayman, Cayman Islands. Insight Venture Partners VII, L.P. is a private equity fund that invested in Washington Corporation Smartsheet, made the 2017 Tender Offer, and bought shares of Smartsheet stock from Plaintiffs in Washington and the putative class during the 2017 Tender Offer.

16. Defendant Insight Venture Partners (Cayman) VII, L.P. Defendant Insight Venture Partners (Cayman) VII, L.P. is a limited partnership organized and existing under the laws of the Cayman Islands, with an office located in the Grand Cayman, Cayman Islands. Insight Venture Partners (Cayman) VII, L.P. is a private equity fund that invested in Smartsheet, made the 2017 Tender Offer, and bought shares of Smartsheet stock from Plaintiffs in Washington and the putative class during the 2017 Tender Offer.

17. Defendant Insight Venture Partners Coinvestment Fund II, L.P. Defendant Insight Venture Partners Coinvestment Fund II, L.P. is a limited partnership organized and existing under the laws of the State of Delaware, and with a principal place of business located in New York, New York. Defendant Insight Venture Partners Coinvestment Fund II, L.P. is a private equity fund that invested in Smartsheet, made the 2017 Tender Offer, and bought shares

1 of Smartsheet stock from Plaintiffs in Washington and the putative class during the 2017
2 Tender Offer.

3 18. Defendant Insight Venture Partners VII (Co-Investors), L.P. Defendant Insight
4 Venture Partners VII (Co-Investors), L.P. is a limited partnership organized and existing under
5 the laws of the Cayman Islands, with an office located in the Grand Cayman, Cayman Islands.
6 Insight Venture Partners VII (Co-Investors), L.P. is a private equity fund that invested in
7 Smartsheet, made the 2017 Tender Offer, and bought shares of Smartsheet stock from Plaintiffs
8 in Washington and the putative class during the 2017 Tender Offer.

9 19. Defendant Insight Venture Partners (Delaware) VII, L.P. Defendant Insight
10 Venture Partners (Delaware) VII, L.P. is a limited partnership organized and existing under the
11 laws of the State of Delaware, and with a principal place of business located in New York, New
12 York. Defendant Insight Venture Partners (Delaware) VII, L.P. is a private equity fund that
13 invested in Smartsheet, made the 2017 Tender Offer, and bought shares of Smartsheet stock
14 from Plaintiffs in Washington and the putative class during the 2017 Tender Offer.

15 20. Defendant Insight Venture Associates VII, L.P. Defendant Insight Venture
16 Associates VII, L.P. is a limited partnership organized and existing under the laws of the State
17 of Delaware, and with a principal place of business located in New York, New York.
18 Defendant Insight Venture Associates VII, L.P. is the sole general partner of Defendants
19 Insight Venture Partners VII, L.P., Insight Venture Partners (Cayman) VII, L.P., Insight
20 Venture Partners VII (Co-Investors), L.P., and Insight Venture Partners (Delaware) VII, L.P.,
21 and exercised control over the decisions of those entities, including the 2017 Tender Offer that
22 emanated from Washington.
23

21. Defendant Insight Venture Associates VII, Ltd. Defendant Insight Venture Associates VII, Ltd. is a limited company organized and existing under the laws of the Cayman Islands, with an office located in the Grand Cayman, Cayman Islands. Defendant Insight Venture Associates VII, Ltd. is a general partner of Insight Venture Associates VII, L.P. and exercised control over the decisions of that entity and the entities Insight Venture Associates VII, L.P. controls, including the 2017 Tender Offer that emanated from Washington. Defendant Insight Venture Associates VII, Ltd. signed Smartsheet's Amended and Restated Investors' Rights Agreement (dated May 19, 2017) as a general partner on behalf of Insight Venture Associates VII, L.P., as a general partner on behalf of each of the following Smartsheet investors and common stock holders: Insight Venture Partners, VII, L.P., Insight Venture Partners (Cayman) VII, L.P., Insight Venture Partners VII (Co-Investors), L.P., and Insight Venture Partners (Delaware) VII, L.P.

22. Defendant Insight Venture Associates Coinvestment II, L.P. Defendant Insight Venture Associates Coinvestment II, L.P. is a limited partnership organized and existing under the laws of the State of Delaware, and with a principal place of business located in New York, New York. Defendant Insight Venture Associates Coinvestment II, L.P. is the sole general partner of Insight Venture Partners Coinvestment Fund II, L.P. and exercised control over the decisions of that entity, including the 2017 Tender Offer that emanated from Washington.

23. Defendant Insight Holding Group, LLC. Defendant Insight Holding Group, LLC is a limited liability company organized and existing under the laws of the State of Delaware, and with a principal place of business located in New York, New York. Defendant Insight Holding Group, LLC was the sole shareholder of Insight Venture Associates VII, Ltd. and exercised control over the decisions of that entity, including the 2017 Tender Offer. It is also

1 the sole general partner of Insight Venture Associates Coinvestment II, L.P. and exercised
 2 control over the decisions of that entity and the entities Insight Venture Associates
 3 Coinvestment II, L.P. controls, including the 2107 Tender Offer that emanated from
 4 Washington.

5 24. Defendant Insight Venture Management, LLC. Defendant Insight Venture
 6 Management, LLC is a limited liability company organized and existing under the laws of the
 7 State of Delaware with a principle place of business in New York, New York, which does
 8 business as Insight Venture Partners. Insight Venture Management, LLC is an investment
 9 adviser registered with the SEC, and serves as investment adviser to the Private Equity Fund
 10 Defendants. Insight Venture Management, LLC exercises investment discretion over the money
 11 that investors invest in the Private Equity Fund Defendants, including these entities'
 12 investments in Smartsheet and the decision to purchase shares of Smartsheet in the 2017
 13 Tender Offer that emanated from Washington.

14 25. Defendant Ryan Hinkle. Defendant Ryan Hinkle is an individual residing in
 15 New York, New York, and is a Managing Director of Insight Venture Management, LLC d/b/a
 16 Insight Venture Partners. He led Insight Venture Partners' investment in Smartsheet, and
 17 exercised control over Defendants' investments in Smartsheet Since 2012, Hinkle has been a
 18 member of Smartsheet's Board of Directors and has attended meetings of the Board in
 19 Washington.

20 JURISDICTION AND VENUE

21 26. Jurisdiction is appropriate in this Court pursuant to RCW 2.08.010.

22 27. Each of the Defendants has subjected itself to the personal jurisdiction of this
 23 Court through Washington's long-arm statute RCW 4.28.185(1) by transacting business in the

1 State of Washington, including but not limited to investing in Smartsheet Inc., a Washington
 2 Corporation headquartered in Bellevue, Washington in exchange for shares of stock in
 3 Smartsheet; by entering into a letter agreement with Smartsheet to facilitate a tender offer for
 4 Smartsheet stock; by purchasing Smartsheet stock from Plaintiffs, who are Washington
 5 residents; by preparing submitting, and disseminating communications and materials to the
 6 State of Washington to solicit the tender offer of Smartsheet stock; and by committing tortious
 7 acts in the State of Washington.

8 28. Defendants submitted to the jurisdiction of the State of Washington and availed
 9 themselves of the rights and protections of the laws of the State of Washington throughout their
 10 involvement with Smartsheet. In Paragraph 3.7 of the Amended and Restated Investors' Rights
 11 Agreement dated May 19, 2017, which specifies the rights and remedies of investors in
 12 Smartsheet, and to which Defendants Insight Venture Partners VII, L.P.; Insight Venture
 13 Partners (Cayman) VII, L.P.; Insight Venture Partners Coinvestment Fund II, L.P.; Insight
 14 Venture Partners VII (Co-Investors), L.P.; Insight Venture Partners (Delaware) VII, L.P.;
 15 Insight Venture Associates VII, L.P.; Insight Venture Associates Coinvestment II, L.P.; Insight
 16 Venture Associates VII, Ltd. are signatories, states that: "**Governing Law.** This Agreement and
 17 all acts and transactions pursuant hereto shall be governed, construed and interpreted in
 18 accordance with the laws of the state of Washington, without giving effect to principles of
 19 conflicts of laws."

20 29. Venue is proper pursuant to RCW 4.12.020(3).
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FACTUAL ALLEGATIONS

A. The Formation and Growth of Smartsheet

30. This action concerns the Plaintiffs', putative class members', and Defendants' investments in Smartsheet. Smartsheet is a Washington Corporation, and was founded in 2005. Smartsheet is headquartered in Bellevue, Washington.

31. Smartsheet is a software company that develops and markets a product (also called Smartsheet), which is a leading cloud-based collaboration software for teams. Smartsheet describes its product as a Software as a Service ("SaaS") platform for collaborative work management that allows and enables teams and organizations to "plan, capture, manage, automate, and report on work -at a scale."² Today, Over 80,000 brands, and millions of users utilize Smartsheet, including over 75% of Fortune 500 Companies.³

32. From its inception in 2005 until April 2018, Smartsheet was a privately-held technology startup company. Smartsheet's shares were not traded on any public securities exchange. As a private company, Smartsheet issued all of its shares with transfer restrictions, and the shares could not be resold or transferred without the consent of the company.

33. According to Smartsheet's Bylaws, originally adopted in 2005 and effect in 2017, all certificates representing shares of Smartsheet state in substantially similar language that:

THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS (COLLECTIVELY, THE "**ACTS**"). NO INTEREST IN SUCH SHARES MAY BE SOLD, ENCUMBERED OR OTHERWISE TRANSFERRED UNLESS (A) THERE IS AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACTS COVERING THE TRANSACTION, (B) THIS

² Smartsheet, <https://www.smartsheet.com/> (last visited Oct. 31, 2019).

³ *About Smartsheet*, Smartsheet, <https://www.smartsheet.com/about> (last visited Oct. 31, 2019).

1 CORPORATION RECEIVES AN OPINION OF COUNSEL SATISFACTORY TO
2 THIS CORPORATION STATING THAT SUCH REGISTRATION IS NOT
3 REQUIRED UNDER THE ACTS, OR (C) THIS CORPORATION OTHERWISE
4 SATISFIES ITSELF THAT SUCH REGISTRATION IS NOT REQUIRED UNDER
5 THE ACTS.

6 Bylaws § 6.5.

7 34. As a private company, Smartsheet sought financial support from early investors,
8 including from venture capital firms such as Insight Partners, and from individuals such as
9 Plaintiff.

10 35. Plaintiff Patrick Colacurcio sold a portion of his Smartsheet stock in the 2017
11 Tender Offer. On or about July 18, 2017, Plaintiff Patrick Colacurcio sold 105,795 shares of
12 Smartsheet common and preferred stock. The shares sold at the tender offer price of \$8.3035
13 per share for a total of \$878,468.78.

14 36. Plaintiffs Maris and David Hanson sold a portion of their Smartsheet stock in
15 the 2017 Tender Offer. On or about July 18, 2017, Plaintiffs Maris and David Hanson sold
16 70,546 shares of Smartsheet stock. The shares sold at the tender offer price of \$8.3035 per
17 share for a total of \$585,778.71.

18 37. Plaintiff James McMurchie sold a portion of his Smartsheet stock in the 2017
19 Tender Offer. On or about July 18, 2017, Plaintiff James McMurchie sold 29,465 shares of
20 Smartsheet stock. The shares sold at the tender offer price of \$8.3035 per share for a total of
21 \$244,662.63.

22 38. Approximately five months later, on December 21, 2017, Smartsheet filed a
23 confidential draft registration statement for an IPO with the U.S. Securities and Exchange
Commission ("SEC").

39. Approximately eight months after the 2017 Tender Offer, on March 26, 2018, Smartsheet filed a registration statement Form S-1 with the SEC, announcing publicly its intent to go public. The Registration statement was declared effective by the Securities and Exchange Commission on April 26, 2018.

40. On April 27, 2018, Smartsheet's shares began trading on the New York Stock Exchange, closing at around \$19.50 per share on its first day of trading. Smartsheet raised \$150 million in its IPO.

41. Smartsheet is now worth over \$1 billion. As of December 11, 2019, Smartsheet stock trades at \$42.89 per share.

B. Insight Partners Invests in Smartsheet

42. Insight Partners is a venture capital firm dedicated to finding, investing in, and scaling leading software companies. As Insight Partners describes itself, "We're software experts who invest in growth. Our capital and expertise give companies the resources and know-how to accelerate growth – visionary executives do the rest. Insight reflects the diversity, the resolve, and the hustle of our home-base, New York City, and we apply this energy to support the companies and leadership teams we invest in across the world."⁴

43. Insight Venture Partners first invested in Smartsheet in 2012, participating in a round of funding for the Washington-based tech startup company for which Insight Partners received shares of Smartsheet stock. In December 2012, Smartsheet announced that it had secured \$26 million from Insight Partners and Madrona Venture Group. As Insight Partners

⁴ Insight Partners, <https://www.insightpartners.com/> (last visited Oct. 31, 2019).

1 announced, Smartsheet “will use the funding to accelerate sales and marketing efforts, advance
2 software development efforts, and expand partnerships.”⁵

3 44. As part of this 2012 transaction between Insight Partners and Smartsheet,
4 Defendant Ryan Hinkle, described then as a “principal at Insight Venture Partners,” joined
5 Smartsheet’s Board of Directors.”⁶ Hinkle said of Smartsheet: “We are excited to join the
6 team.” Since then, Hinkle has been “Insight’s lead investor in Smartsheet”⁷ and maintained a
7 position on Smartsheet’s Board of Directors from 2012 to 2019.

8 45. In 2014, Insight Partners participated in another round of financing in
9 Smartsheet where Insight Partners, along with other venture capital investors, raised \$35
10 million for Smartsheet.⁸ Insight Partners received additional shares of Smartsheet stock at this
11 time.

12 46. In or around May 2017, Smartsheet again announced another round of funding
13 (“Series F funding”), led by Insight Partners. Smartsheet “announced it raised \$52.1 million in
14 Series F funding, led by existing investor Insight Partners. Additional Smartsheet investors
15 Madrona Venture Group and Sutter Hill Ventures, and new investor, Summit Partners, also
16 participated in the round.”⁹ Insight Partners received additional shares of Smartsheet stock for
17 its participation in the Series F funding.

18 _____
19 ⁵ *Smartsheet Raises \$26 Million in Funding from Insight Venture Partners and Madrona Venture Group*, Insight
20 Venture (Dec. 3, 2012), <https://www.insightpartners.com/about-us/news-press/smartsheet-raises-26-million-in-funding-from-insight-venture-partners-and-madrona-venture-group/>.

21 ⁶ *Id.*

22 ⁷ *Smartsheet IPO: Survive, Drive, Thrive*, Insight Venture <https://www.insightpartners.com/blog/smartsheet-ipo-survive-drive-thrive/> (last visited Oct. 31, 2019).

23 ⁸ *Smartsheet Raises \$35 Million in New Round*, Insight Venture (May 5, 2014),
<https://www.insightpartners.com/about-us/news-press/smartsheet-raises-35-million-in-new-round/>.

⁹ *Smartsheet Raises \$52 Million to Manage and Automate Enterprise Collaboration: Insight Venture Partners Leads Series F Round to Further Accelerate Rapid Adoption of Smartsheet’s Enterprise Collaborative Work*

1 47. While discussing the Series F funding, Defendant Hinkle, Managing Director at
 2 Insight Partners stated: “Since our initial investment with Smartsheet, we have seen an
 3 incredible amount of development and growth behind their [sic] capabilities. We are committed
 4 to continuing this acceleration so that more companies can benefit from the unique value of
 5 Smartsheet.”¹⁰

6 48. Over the years, Insight Partners acquired shares of Smartsheet stock in at least
 7 five different series of fundraising. By the end of the Series F funding, just a month before the
 8 2017 Tender Offer, Insight Partners had accumulated over 23 million shares of Smartsheet
 9 stock.

10 49. Throughout the years of Insight Partners’ funding and Defendant Hinkle’s
 11 service on Smartsheet’s Board of Directors, Insight Partners provided “strategic guidance” to
 12 Smartsheet, as the tech startup continued to grow and scale as a company. Smartsheet’s own
 13 CEO Mark Mader acknowledged Insight’s strategic guidance of Smartsheet: “We have
 14 benefited greatly from our partnership with Insight and others by giving up ownership in our
 15 company. In exchange, we get access to Insight, which includes talent, relationships and best
 16 practices.”¹¹

17 50. As Defendant Hinkle stated: “Through multiple rounds of financing and range
 18 of strategic guidance from Insight, we are proud to have supported Smartsheet’s growth to
 19 more than \$100M+ ARR.”

21 *Management Platform*, Insight Venture (May 24, 2017), <https://www.insightpartners.com/about-us/news-press/smartsheet-raises-52-million-to-manage-and-automate-enterprise-collaboration/>.

22 ¹⁰ *Id.*

23 ¹¹ *Growth Gurus: CEO of Smartsheet*, Insight Partners, <https://www.insightpartners.com/blog/growth-gurus-ceo-of-smartsheet/> (last visited Oct. 31, 2019).

1 51. Insight Partners’ strategic guidance to and involvement in Smartsheet continued
 2 through Smartsheet’s IPO process. And six years post-investment, Insight Partners “helped
 3 them achieve a successful IPO.”¹² Defendant Hinkle stated during a published interview with
 4 Smartsheet’s CEO Mark Mader: “I’ve been a part of three separate financings where you raised
 5 money and Insight was proud to be involved in Smartsheet’s IPO process.”¹³

6 **C. Insight Partners Makes a Tender Offer in 2017**

7 52. Prior to June 2017, Defendants approached Smartsheet and requested permission
 8 to make a tender offer to Smartsheet’s shareholders to obtain further stock in Smartsheet.
 9 Smartsheet’s authorization of, and participation in, the tender offer was necessary due to
 10 transfer restrictions on Smartsheet stock.

11 53. According to Section 6.5 of Smartsheet’s Bylaws, signed June 6, 2005 and in
 12 effect as of April 24, 2018, all Smartsheet stock was subject to restrictions on transfer. In order
 13 to facilitate a tender offer, Defendants were required to—and did—seek approval from
 14 Smartsheet to waive transfer restrictions as was necessary to allow Defendants to purchase
 15 additional shares of stock from existing Smartsheet shareholders.

16 54. In June 2017, Defendants entered into a letter agreement with Smartsheet in
 17 which Smartsheet agreed to waive certain transfer restrictions in connection with, and assist in
 18 the administration of, a tender offer that the Defendants proposed to commence. Defendant
 19 Hinkle was on the Board of Smartsheet at this time, which authorized this tender offer.

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 23 ¹² *Id.*

¹³ *Id.*

1 55. Insight Partners made the tender offer to Smartsheet shareholders immediately
2 following and in conjunction with the Series F round of financing led by Insight Partners.

3 56. Having obtained the letter agreement with Smartsheet, Defendants commenced a
4 tender offer in June 2017 to purchase outstanding shares of Smartsheet's capital stock at an as-
5 converted to Class B common stock price per share of \$8.3035, less transaction costs ("2017
6 Tender Offer").

7 57. As stated in the Offer to Purchase, dated June 2, 2017, the Private Equity Fund
8 Defendants, along with another investment group, Summit Partners, offered to purchase up to
9 6,623,712 shares of Smartsheet at a price of \$8.3035 per share on an as-converted to Common
10 Stock basis. Because, at the time, certain preferred stock (Series A-2 Preferred Stock, Series A-
11 3 Preferred Stock and Series A-4 Preferred stock) could be converted at the option of the holder
12 into 1.02336, 1.05552, and 1.06949 shares of Smartsheet Common Stock, respectively, the
13 Offer to Purchase for these shares was increased to \$8.4975, \$8.7645, and \$8.8805
14 respectively.

15 58. Smartsheet provided notice of the tender offer to the shareholders.

16 59. The 2017 Tender Offer closed in July 2017.

17 60. By the end of the 2017 Tender Offer, members of the putative class tendered a
18 total of 6,477,843 shares of common and convertible preferred stock for a total price of
19 approximately \$55 million.

20 61. During the 2017 Tender Offer, the Private Equity Fund Defendants purchased
21 5,300,043 shares of Smartsheet stock for a total price of approximately \$45 million. Those
22 shares are currently worth over \$212 million.
23

62. During the 2017 Tender Offer, Plaintiff Patrick Colacurcio sold 105,795 shares of Smartsheet stock for \$878,468.78. Plaintiffs Maris and David Hanson sold 70,546 shares of Smartsheet stock for \$585,778.71. Plaintiff James McMurchie sold 29,465 shares of Smartsheet stock for \$244,662.63.

63. Following the close of the 2017 Tender Offer, Defendants had acquired over 28.7 million shares of Smartsheet stock, including:

- a. Defendant Insight Venture Partners VII, L.P. held 13,906,902 shares of Smartsheet stock;
- b. Defendant Insight Venture Partners (Cayman) VII, L.P. held 6,122,102 shares of Smartsheet stock;
- c. Defendant Insight Venture Partners VII (Co-Investors), L.P. held 321,875 shares of Smartsheet stock;
- d. Defendant Insight Venture Partners (Delaware) VII, L.P. held 879,649 shares of Smartsheet stock; and
- e. Defendant Insight Venture Partners Conivestment Fund II, L.P. held 7,500,479 shares of Smartsheet stock.

64. At the time of the IPO, Defendants held over 28% of the beneficial ownership and over 32% of the voting power in Smartsheet.¹⁴

¹⁴ Smartsheet Inc. Amendment No. 1 to Form S-1 (Apr. 16, 2018), <https://www.sec.gov/Archives/edgar/data/1366561/000162828018004275/smartsheets-1a1.htm>

D. Defendants' Knowledge of Smartsheet Plans for IPO before the 2017 Tender Offer

65. By the time of the 2017 Tender Offer, Smartsheet was already planning for, and had already taken steps toward, an IPO.

66. Smartsheet put a lot of time, planning, and preparation into its IPO efforts. Smartsheet's own CEO, Mark Mader, has publicly discussed his philosophy on Smartsheet's IPO process and the planning that went into it. Mr. Mader stated in an interview with Defendant Hinkle, discussing Smartsheet's decision to launch an IPO: "I was definitely in the camp of when we go public, we're going to be ready to go public."¹⁵ Mr. Mader continued that he felt that when Smartsheet was going to IPO, "[w]e're going to have a sense of our organizational effectiveness, our mechanisms, we are going to have a sense of our outlook, a sense of our strategy, we are going to be well-aligned from our partner standpoint, and I would say I was more concerned with wanting those things set up" before going public.

67. A typical IPO progress generally takes at least 6 to 12 months to complete, with additional planning in advance of that timeframe.¹⁶ "A successful IPO requires careful planning" and advance preparation is key to a successful and smooth IPO. Planning for an IPO often starts more than a year out.¹⁷

68. The IPO planning process involves time consuming steps and stages, such as the process of selecting an investment bank as advisor and underwriter; a due diligence period by

¹⁵ *Growth Gurus: CEO of Smartsheet*, Insight Partners, <https://www.insightpartners.com/blog/growth-gurus-ceo-of-smartsheet/> (audio recording of interview).

¹⁶ *Roadmap for an IPO: A guide to going public*, PwC, available at https://www.pwc.com/hu/hu/szolgalatasok/konyvvizsgalat/szamviteli-tanacsadas/kiadvanyok/roadmap_for_an_ipo.pdf (last visited June 12, 2019).

¹⁷ *Id.*

1 that underwriter; the preparation of necessary regulatory filings, including the Registration
2 Statement and Prospectus, among other steps.

3 69. The Registration Statement is a lengthy document disclosing many facets of the
4 company's business operations and finances, which is prepared and filed with the SEC prior to
5 the IPO. "Preparing and filing the registration statement is a relatively complicated, time-
6 consuming, technical process requiring substantial planning and coordination. It involves
7 providing the information specified by the SEC form and complying with the applicable SEC
8 rules in the most efficient manner possible. It requires a great deal of effort by the management
9 team, lawyers and independent accountants to describe a company as accurately and positively
10 as possible, while also disclosing any negative risk factors."¹⁸

11 70. Companies looking to launch an IPO spend months preparing a Registration
12 Statement. Smartsheet filed its confidential registration statement on December 22, 2017, just
13 five months after the 2017 Tender Offer.

14 71. Prior to its IPO, Smartsheet had to demonstrate to the SEC that has complied
15 with Generally Accepted Accounting Principles (GAAP) going back three years.

16 72. Before the 2017 Tender Offer and in preparation for the IPO, Smartsheet
17 substantially changed its accounting practices to comply with GAAP. This required a
18 substantial investment of time and money to change its accounting procedures to come into
19 compliance with Accounting Standards Update (ASU) issued by the Financial Accounting
20 Standards Board (FASB) in 2014. Smartsheet adopted these new standards as of February 1,
21 2017, four months before the 2017 Tender Offer.

22
23 ¹⁸ *Id.*

1 73. The timing and implementation of Smartsheet's adoption of the ASUs show that
2 Smartsheet was making material changes to its financial statements prior to the 2017 Tender
3 Offer and specifically in preparation for the IPO.

4 74. As of January 1, 2017, Smartsheet had not yet adopted several FASB updates to
5 GAAP, which establishes accounting standards for public companies and certain nonpublic
6 companies that follow GAAP. Nonpublic companies generally have more time to adopt new
7 standards than public companies.

8 75. Among the updated standards Smartsheet adopted as of February 1, 2017 was
9 ASU No. 2014-09, *Revenue from Contracts with Customers* ("ASC 606") (issued in May
10 2014), which requires the recognition of revenue when promised goods or services are
11 transferred to customers in an amount that reflects the consideration to which the entity expects
12 to be entitled in exchange for those goods or services.

13 76. The FASB advised public business entities to adopt ASC 606 after December
14 15, 2016.¹⁹ FASB advised non-public companies to wait to implement until after December 15,
15 2017. Smartsheet implemented ASC 606 early, prior to the nonpublic companies' date to
16 demonstrate compliance with GAAP, because it was required for its IPO.

17 77. Smartsheet opted to utilize the full retrospective method of transition to ASC
18 606, which required it to recalculate its revenue going back several years rather than simply
19 implementing the change going forward. Smartsheet used this method to demonstrate historical
20 compliance with GAAP in preparation for its IPO. Again, Smartsheet completed this work four
21 months before the tender offer.

22
23 ¹⁹ <https://www.fasb.org/jsp/FASB/Page/SectionPage&cid=1218220137102> (Last accessed 12/12/2019).

1 78. Officers of Smartsheet knew of its plans to go public by at least May of 2017.
 2 Prior to going public, Smartsheet brought on a new Senior Vice President of Product, Gene
 3 Farrell. Mr. Farrell previously worked for Amazon Web Services. In May 2017, a month before
 4 the tender offer, Mr. Farrell announced he was leaving his employment with Amazon Web
 5 Services to join Smartsheet as the Senior Vice President of Product. In an email that Mr. Farrell
 6 sent to his supervisor at Amazon, dated May 16, 2017, Mr. Farrell stated that one of the reasons
 7 that drove his decision to accept the position at Smartsheet was his desire to experience
 8 “[t]aking a company public.”

9 79. Smartsheet’s Prospectus, filed with the SEC on April 27, 2018 as part of its IPO,
 10 incorporates and relies upon a 23-page report by Forrester Research, Inc. titled “The Total
 11 Economic Impact of Smartsheet,” and dated September 2017. The detailed report includes
 12 substantial data on Smartsheet’s performance, and uses that data to calculate return on
 13 investment, net present value, and several other analyses.²⁰ Upon information and belief,
 14 Smartsheet commissioned this report prior to the June 2017 Tender Offer as part of its plans to
 15 go public.

16 80. One of the key components to Smartsheet’s IPO was the company’s alignment
 17 with its investors. According to CEO Mader, when going public, Smartsheet would “be well-
 18 aligned from our partner standpoint [T]here is a point where you, not only as a CEO but as
 19
 20
 21

22 ²⁰ Forrester, *The Total Economic Impact™ Of Smartsheet: Cost Savings And Business Benefits Enabled By*
 23 *Smartsheet* (Sept. 2017), available at <https://www.smartsheet.com/file/finaltei2017pdf>; see also *The Total*
Economic Impact™ of Smartsheet, Smartsheet, [https://www.smartsheet.com/content-center/executive-](https://www.smartsheet.com/content-center/executive-center/forrester-tei-study-2017)
[center/forrester-tei-study-2017](https://www.smartsheet.com/content-center/executive-center/forrester-tei-study-2017) (last visited Nov. 1, 2019).

1 a leadership team and as an investor group you need to be generally aligned and we finally
 2 reached that.”²¹

3 81. Insight Partners was aware of Smartsheet’s plans to launch an IPO. Defendant
 4 Hinkle, who led and managed Insight Partners’ investment in Smartsheet, was a member of
 5 Smartsheet’s board and personally aware of Smartsheet’s plans to launch and IPO. Defendant
 6 Hinkle had many conversations with Smartsheet’s leadership about an IPO during the years
 7 leading up to the IPO.²² Defendant Hinkle stated in an interview with Smartsheet’s CEO Mark
 8 Mader: “Mark, I remember in that boardroom a number of conversations in the quarters and
 9 years leading up to IPO that you were always focused on that as a possibility if not a
 10 probability . . . and there was a moment I remember it distinctly where it went
 11 from . . . curious to committed.”²³

12 82. At all relevant times while Defendant Hinkle was a director of Smartsheet, and
 13 participating in conversations with Smartsheet’s Board members about Smartsheet’s plans to
 14 launch an IPO, Defendant Hinkle led Defendants’ more than \$120 million investment in
 15 Smartsheet,²⁴ and advised Defendants on all matters relating to their decisions to invest in and
 16 purchase shares of Smartsheet stock.

17 83. Defendants possessed material, non-public, insider information regarding
 18 Smartsheet’s plans to go public, but failed to disclose this non-public information to Plaintiffs

19 _____
 20 ²¹ *Growth Gurus: CEO of Smartsheet*, Insight Partners, <https://www.insightpartners.com/blog/growth-gurus-ceo-of-smartsheet/> (audio) (last visited Oct. 31, 2019).

21 ²² *Id.* (article).

22 ²³ *Id.* (audio).

23 ²⁴ *Smartsheet Raises \$52 Million to Manage and Automate Enterprise Collaboration: Insight Venture Partners Leads Series F Round to Further Accelerate Rapid Adoption of Smartsheet’s Enterprise Collaborative Work Management Platform*, Insight Venture (May 24, 2017), <https://www.insightpartners.com/about-us/news-press/smartsheet-raises-52-million-to-manage-and-automate-enterprise-collaboration/>.

1 and the putative class members when soliciting purchase of their shares in the 2017 Tender
2 Offer.

3 4 **CLASS ACTION ALLEGATIONS**

5 84. Class Definition.

6 All individuals and entities who sold stock in Smartsheet Inc. during
the tender offer dated June 2, 2017.

7 Excluded from the Class are (1) the Defendants and all of their
8 respective employees, officers, directors, agents, immediate family
members, legal representatives, parent corporations, subsidiaries,
9 controlled affiliates, insurers, guarantors, heirs, successors, and
10 assigns, (2) all other Smartsheet shareholders who offered to
purchase shares in the June 2017 tender offer, (3) individuals who,
at the time of the June 2017 tender offer, were Smartsheet directors
and/or executive officers, and (4) the Judge presiding over this
11 Action and all members of her or his family.

12 85. Numerosity. The members of the proposed Class are so numerous that joinder of
13 all members is impracticable. While the exact number of Class members is unknown to
14 Plaintiffs at this time and can only be ascertained through appropriate discovery, Plaintiffs
15 believe there are in excess of 40 members of the proposed Class as Smartsheet had over 150
16 unique private investors while it was a private company, many of whom participated in the
17 2017 Tender Offer. Participating investors sold over 6 million shares in the 2017 Tender Offer.
18 The disposition of the claims of the Class members in a single class action will provide
19 substantial benefits to all parties and the Court.

20 86. Typicality. The representative Plaintiffs are members of the proposed Class. The
21 claims alleged by Plaintiffs are typical of the Class. The representative Plaintiffs, like all Class
22 members, held stock in Smartsheet prior to July 2017, and sold that stock to Defendants during
23 the course of Defendants' 2017 Tender Offer. Plaintiffs' claims, like the claims of all Class

1 members, arise out of the same course of conduct: the tender offer sale and purchase of
 2 Smartsheet securities.

3 87. Commonality and Predominance. There are numerous questions of law and fact
 4 common to the Class members that predominate over any questions solely affecting individual
 5 members of the class. All Class members have been damaged by Defendants' misconduct in
 6 that the Class members all owned stock in Smartsheet and sold that stock to the Insight
 7 Defendants in the tender offer in violation of Washington law. The following common
 8 questions predominate over any questions affecting only individual Class members:

- 9 a. Whether certain Defendants are buyers of a security under RCW 21.20.430(2).
- 10 b. Whether certain Defendants, in connection with the 2017 Tender Offer,
 11 (a) employed devices, schemes and artifices to defraud; (b) omitted to state
 12 material facts necessary in order to make statements made, in light of the
 13 circumstances in which they were made, not misleading; or (c) engaged in acts,
 14 practices, or courses of business that operated as a fraud or a deceit upon
 15 Plaintiffs and the class in connection with the purchase of securities in the 2017
 16 Tender Offer.
- 17 c. Whether the facts that Defendants failed to disclose were material.
- 18 d. Whether Defendants are liable to Plaintiffs and the Class for the shares
 19 purchased in the Tender Offer, as well as for the relief specifically provided in
 20 RCW 21.20.430.
- 21 e. Whether certain Defendants, within the meaning of RCW 21.20.430(3), directly
 22 or indirectly controlled a buyer liable under RCW 21.20.430(2) and/or
 23 materially aided in the tender offer.

1 f. Whether certain Defendants were enriched as a result of the 2017 Tender Offer.

2 g. Whether certain Defendants' enrichment at the expense of Plaintiffs and the
3 Class members was unjust.

4 h. Whether certain Defendants owed Plaintiffs and the Class fiduciary duties.

5 88. Adequacy. Plaintiffs will fairly and adequately protect the interests of the Class.

6 Plaintiffs retained competent and capable attorneys who are experienced trial lawyers with
7 experience in complex securities and class action litigation. Plaintiffs and their counsel are
8 committed to prosecuting this action vigorously on behalf of the Class, and have the financial
9 resources to do so. Neither Plaintiffs nor their counsel have interests that are contrary to or that
10 conflict with those of the proposed Class.

11 89. Superiority of Class Action. A class action is superior to other available methods
12 for the fair and efficient adjudication of the controversy. Absent a class action, most Class
13 members likely would find the cost of litigating their claims prohibitive, particularly in view of
14 the substantial resources that the Defendants have at their disposal to defend against individual
15 claims. The prosecution of separate actions by individual Class members would create a risk of
16 inconsistent or varying adjudications with respect to individual members of the Class, which
17 would establish incompatible standards of conduct for Defendants. Class treatment is superior
18 to multiple individual suits or piecemeal litigation because it conserves judicial resources and
19 promotes consistency and efficiency of adjudication. Plaintiffs and their counsel are unaware of
20 any litigation concerning the 2017 Tender Offer transaction that has already been commenced
21 by one or more Class members. Litigation of the claims should occur in this Court as all claims
22 are state law claims. There will be no significant difficulty in management of this case as a
23 class action.

FIRST CLAIM FOR RELIEF
VIOLATION OF THE WASHINGTON STATE SECURITIES ACT,
RCW 21.20.010 AND 21.20.430(2)
(On Behalf of Plaintiffs and the Class Against All Defendants)

90. Plaintiffs repeat, reallege, and incorporate by reference each and every paragraph set forth above as if fully set forth herein.

91. The transfer of Plaintiffs' securities in Smartsheet to the Defendants in the 2017 Tender Offer constituted the purchase and sale of securities.

92. The Private Equity Fund Defendants Insight Venture Partners VII, L.P.; Insight Venture Partners (Cayman) VII, L.P.; Insight Venture Partners Coinvestment Fund II, L.P.; Insight Venture Partners VII (Co-Investors), L.P.; and Insight Venture Partners (Delaware) VII, L.P., when they purchased Smartsheet stock from Plaintiffs and the Class during the 2017 Tender Offer, omitted material facts or made misleading statements to Plaintiffs and the Class in connection with the purchase of securities. Such omissions and misleading statements were in violation of RCW 21.20.010.

93. Specifically, in connection with making the 2017 Tender Offer, Defendants omitted material non-public facts in the Tender Offer documents by failing to disclose information relating to Smartsheet's plans to go public.

94. Smartsheet's plans to launch an IPO shortly after the tender offer was a material non-public fact.

95. At all relevant times, Defendant Hinkle; Defendant Insight Venture Management, LLC; Defendant Insight Holding Group, LLC; Defendant Insight Venture Associates, VII, Ltd.; Defendant Insight Venture Associates VII, L.P.; and Defendant Insight Venture Associates Conivestment II, L.P. were in a position of control over the Private Equity

1 Fund Defendants and participated in or approved of the Tender Offer transactions such that
 2 each of them was a substantial contributive factor in the violations of RCW 21.20.010, and are
 3 liable to Plaintiffs and the Class under RCW 21.20.430(2).

4 96. As a proximate result of Defendants' acts and omissions, Plaintiffs and the Class
 5 members have been harmed, as they sold their shares of Smartsheet stock for less than those
 6 shares were worth at and following Smartsheet's IPO.

7 97. Defendants are jointly and severally liable to Plaintiffs and the Class for the
 8 actual amount of their investments, as well as for the relief specifically provided in
 9 RCW 21.20.430(2).

10
 11 **SECOND CLAIM FOR RELIEF**
VIOLATIONS OF THE WASHINGTON STATE SECURITIES ACT,
RCW 21.20.010 AND 21.20.430(3)
(On Behalf of Plaintiffs and the Class Against Defendants
Hinkle; Insight Venture Management, LLC; Insight Holding Group, LLC;
 13 **Insight Venture Associates, VII, Ltd.; Insight Venture Associates VII, L.P.;**
and Insight Venture Associates Conivestment II, L.P.)

14 98. Plaintiffs repeat, reallege, and incorporate by reference each and every
 15 paragraph set forth above as if fully set forth herein.

16 99. As alleged above, the Defendants violated RCW 21.20.010 by omitting material
 17 non-public facts in connection with the 2017 Tender Offer and corresponding purchase of
 18 securities by failing to disclose information relating to Smartsheet's plans to go public.

19 100. At all times, Defendant Hinkle was a Managing Director at Insight Venture
 20 Management, LLC and directed, controlled, and influenced the management of Defendants'
 21 investment in Smartsheet.
 22
 23

1 101. At all relevant times, Defendant Hinkle was a member of Smartsheet's Board of
2 Directors. And at all relevant times, Defendant Hinkle possessed material, non-public
3 information about Smartsheet's plans to IPO.

4 102. Defendant Hinkle knew or should have known that the 2017 Tender Offer
5 documents omitted material facts regarding Smartsheet's plans to IPO. As Defendant Hinkle
6 was the lead investor controlling Private Equity Fund Defendants' investment in Smartsheet, all
7 Defendants possessed such material, non-public information regarding Smartsheet's plans to
8 IPO.

9 103. At all relevant times herein, Defendant Hinkle had the power, both direct and
10 indirect, to control Defendants and did in fact exercise such control, and he is thus a controlling
11 person within the meaning of RCW 21.20.430.

12 104. At all relevant times Defendants Hinkle, within the meaning of
13 RCW 21.20.430(3), directly or indirectly controlled a buyer liable under RCW 21.20.430(2)
14 and/or materially aided in 2017 Tender Offer purchase of securities.

15 105. Specifically, in connection with making the 2017 Tender Offer, Defendants
16 omitted material non-public facts in the Tender Offer documents by failing to disclose
17 information relating to Smartsheet's plans to go public when buying securities, in violation of
18 RCW 21.20.010.

19 106. Smartsheet's plans for an IPO within the next year was a material non-public
20 fact. Plaintiffs and the Class members tendered stock for sale in the 2017 Tender Offer in
21 reasonable reliance on Defendants' omissions.
22
23

107. As a proximate result of Defendants' acts and omissions, Plaintiffs and the Class members have been harmed as they sold their shares of Smartsheet stock for less than those shares would have been worth at or following Smartsheet's IPO.

108. Defendants are jointly and severally liable to Plaintiffs for the actual amount of Plaintiffs' investment, as well as for the relief specifically provided in RCW 21.20.430(3).

THIRD CLAIM FOR RELIEF
BREACH OF FIDUCIARY DUTY
(On Behalf of Plaintiffs and the Class Against Defendant Hinkle)

109. Plaintiffs repeat, reallege, and incorporate by reference each and every paragraph set forth above as if fully set forth herein.

110. At all times from his appointment in 2012 to 2019, Defendant Hinkle was a director of Smartsheet.

111. Prior to the close of the 2017 Tender Offer, Plaintiffs and the Class were shareholders of Smartsheet.

112. As a director of Smartsheet, Defendant Hinkle owed fiduciary duties to deal with Plaintiffs and the Class in good faith and to place Plaintiffs and the Class's interests above his own.

113. By and through the acts and omissions described herein, Defendant Hinkle breached his fiduciary duties to Plaintiffs and the Class.

114. As a proximate result of Defendant Hinkle's acts and omissions, Plaintiffs and the Class have been harmed in an amount to be proven at trial.

FOURTH CLAIM FOR RELIEF
UNJUST ENRICHMENT

(On Behalf of Plaintiffs and the Class Against All Defendants)

115. Plaintiffs repeat, reallege, and incorporate by reference each and every paragraph set forth above as if fully set forth herein.

116. Defendants have been enriched by inducing Plaintiffs and the putative class members into selling their shares of Smartsheet stock during the 2017 Tender Offer through misleading omissions of material information.

117. Defendants wrongfully accepted and retained these benefits to the detriment of Plaintiffs and the putative class members

118. Defendants' enrichment at the expense of Plaintiffs and the putative Class members was unjust. It is unconscionable for the Defendants to retain any wealth or monies received from the 2017 Tender Offer purchase of stock and any interest or proceeds therefrom.

119. Plaintiffs and the putative Class members are entitled to damages in an amount to be proved at trial.

120.

REQUEST FOR RELIEF

Plaintiffs request that the Court grant the following relief against Defendants:

- (a) Certifying this case as a class action on behalf of Plaintiffs and the Class defined above, appointing Plaintiffs as Representatives of the Class, and appointing Plaintiffs' counsel to represent the Class;
- (b) Award Plaintiffs and the Class appropriate relief, including actual and compensatory damages against each of the Defendants jointly and severally in amounts to be determined at trial;

- 1 (c) Award Plaintiffs and the Class appropriate relief, including rescission and/or
2 damages as provided for under the Washington State Securities Act;
- 3 (d) Award Plaintiffs and the Class appropriate relief, including restitution and
4 disgorgement of fees;
- 5 (e) Award Plaintiffs and the Class pre- and post-judgement interest on any award to
6 the extent allowable by law;
- 7 (f) Award Plaintiffs and the Class their reasonable litigation expenses, costs, and
8 reasonable attorneys' fees as authorized under the Washington State Securities
9 Act;
- 10 (g) Permit Plaintiffs and the Class to amend their pleadings to conform to the
11 evidence produced at trial; and
- 12 (h) Award such other and further relief as equity and justice may require.

13 **JURY DEMAND**

14 Plaintiffs request a trial by jury.

15
16 DATED this 26th day of June, 2020.

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CERTIFICATE OF SERVICE

Pursuant to LGR 30 (B)(i), I certify that on this date I electronically served a copy of the foregoing document via the e-service feature within the clerk's online eFiling application upon the following parties:

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DATED this 26th day of June, 2020.

s/ Melissa W. Andrzejewski
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EXHIBIT 1

